SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

October Term, 1967

No. 64

UNITED ARTISTS CORPORATION,
Appellant,

v.

CITY OF DALLAS,
Appellee.

MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* AND BRIEF OF THE KAREN HORNEY CLINIC, INC., AS *AMICUS CURIAE* IN SUPPORT THEREOF

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MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*

Karen Horney Clinic, Inc., respectfully moves for leave to file the annexed brief *amicus curiae* in this proceeding.

The Karen Horney Clinic, established in 1955, is a psychiatric clinic licensed by the Department of Mental Hygiene of the State of New York. It is located at 329 East 62nd Street in the Borough of Manhattan, City of New York. The Clinic, whose program includes psychiatric treatment for both children and adults, is professionally interested in any legislation which purports to deal with and offer possible solutions for the causes of emotional disturbances in and anti-social conduct by children.

The Clinic's medical staff comprises 69 doctors, each of whom has served a residency in a psychiatric hospital approved by the American Medical Association and also has received or is receiving further training at the American Institute of Psychoanalysis. Its clinical staff includes two psychologists and seven psychiatric social workers, among others. In addition, the Clinic is served by consultants in such fields as psychology, sociology and education.

The Clinic's adult program includes treatment for learning and school disabilities, obesity, sexual deviation, and marital problems. Its child program includes a Child

Guidance Clinic, which deals with the prevention, diagnosis and treatment of emotional illness in children; treatment for the emotionally retarded, and therapy for the family as a unit. During the period from July, 1966 to June, 1967 the Clinic conducted 10,985 individual interview sessions, of which 7,477 were adult and 3,508 were with children (age 8-15).

The Clinic also participates in various community action programs, such as a project in cooperation with St. Luke's Hospital to aid elderly isolates and unmarried teenage mothers on the West Side of New York City.

Counsel for the Movant is familiar with the arguments advanced on both sides in this appeal, and believes that there is a need for the additional commentary contained in the attached brief *amicus curiae* on the following two points:

(1) The finding by the City Council of the City of Dallas, as set forth in the Preamble to Dallas City Ordinance No. 11284, that motion pictures are a contributing cause of delinquency, sexually promiscuous conduct and criminal behavior on the part of young persons.

(2) The implied finding by the lower courts in this case that "Viva Maria," and presumably films of similar content, would provoke or create socially deleterious behavior or attitudes on the part of young persons.

Because of its acknowledged experience and eminence in the treatment of emotional disturbances in children, the Karen Horney Clinic believes that its views on these points may aid the Court in its consideration of the issues presented in this appeal. It therefore respectfully requests permission to file the attached brief *amicus curiae.*

Respectfully submitted,

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BRIEF OF THE KAREN HORNEY CLINIC, INC., AS *AMICUS CURIAE*

Interest of the *Amicus*

The interest of the *Amicus* is set forth in the Motion for Leave to File this brief, *supra.*

ARGUMENT

I. No clear causal relationship between motion pictures and anti-social behavior has been established.

The preamble of Dallas ordinance No. 11,284 states that it is necessary for the City of Dallas to establish a system for the classification of motion pictures as to their suitability for young persons because it is the opinion of the City Council that motion pictures are one of the contributing factors of juvenile delinquency and that motion pictures possess a greater capacity for good and evil for young persons than other media of expression.

In other words the premise upon which the City Council of Dallas has acted in adopting the Dallas ordinance is that there is some causal relationship between the viewing of motion pictures and the moral and social behavior of young persons. The City of Dallas contends that it may constitutionally restrain a protected First Amendment freedom because of the harmful effect of that freedom on young persons.

The argument is that cumulative exposure to certain types of films encourages criminal behavior and reinforces factors in the environment which create violent and delinquent behavior. From the point of view of psychotherapy, this argument is specious. There has been little, if any, published clinical evidence to support the position that films lead young persons into delinquent behavior. Indeed, there has been no clear evidence demonstrating a causal relationship between motion pictures and desirable or undesirable moral and social behavior of young persons. In the experience of this clinic, there has never been any instance of deviant behavior resulting from exposure to a motion picture.* No doubt motion pictures may to some extent influence clothing, hair styles, makeup and perhaps even speech patterns. How far and how broad this type of influence may be has not been established. There are contradictory theories with respect to their quantitative impact.** But this is an area completely removed from that of delinquent behavior.

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* To such extent as there have been fears in the young resulting from motion picture content, they have been caused by such children's classics as "Wizard of Oz", "Dumbo", "Bambi", and "Snow White and the Seven Dwarfs". Certainly, this Court would not uphold an ordinance which would deprive the young of exposure to imaginative classics such as these on the premise that these films cause anti-social behavior.

** Hovland, Carl I., Effects of the Mass Media of Communication in The Handbook of Social Psychiatry—Gardner Lindzey, ed., Reading, Mass., Addison-Wesley Publishing Co., 1959—Vol. II.—pp. 1062-1103.

It is not to be disputed that one of the primary concerns of the community must be the prevention of juvenile delinquency and anti-social behavior on the part of young persons. It is for this very reason that the *amicus* urges this Court, in considering the constitutionality of the Dallas ordinance, to weigh the pragmatic effect of a community's reliance on an ordinance of this type as a solution to the problems of anti-social behavior. The question of juvenile delinquency and the factors producing it are complex. Many different facets go into the way society views deviant behavior on the part of young persons. The singling out of one type of influence—and indeed only one of the numerous media to which children are exposed—does not, in our view, contribute to the solution of the problem but instead will hinder research, study and understanding of those factors which may have a more meaningful and direct effect on behavior.

It is for these reasons that we urge the Court, in assessing the constitutional aspects of this ordinance, to consider the fallacy of the premises upon which it has been enacted.

II. The motion picture "Viva Maria" would not provoke or create socially deleterious behavior or attitudes on the part of young persons.

The medical director* of *amicus* Karen Horney Clinic and its Executive Director,** who is also a member of the faculty of the New School for Social Research where he teaches courses relating to motion pictures, both viewed the film "VIVA MARIA" and analyzed its contents to determine its possible effect, if any, on the moral values of young persons. It is their conclusion that "VIVA MARIA," in theory, supports the central and enduring social and ethical values of Western civilization. The film represents tri-

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* Louis R. Hott, MD

** Joseph Goldberg, Ed. D., MSW

umph of freedom over tyranny, of mercy over cruelty and fear, of social justice for the poor and oppressed, and of love over perverse sadism.

"VIVA MARIA" does not appear to portray either "sacrilege" or "sexual promiscuity" The film adopts the pattern of many westerns which clearly differentiate between "good guys" and "bad guys." It differs from the traditional outdoor western only in that its heroes are women rather than men, and that the motion picture has a quasi-religious significance. Throughout the film, however, good is represented as triumphing over the forces of evil.

The testimony adduced at the trial of this case has not demonstrated that "VIVA MARIA" has or might harmfully affect young persons. It is the professional opinion of the amicus that the moral values presented by the film, *i.e.*, the triumph of good over evil, would far outweigh such harmful effect, if any, which the film might have upon young persons and that its suppression for young persons should not have been countenanced by the Texas courts.

CONCLUSION

It is respectfully submitted that the judgment appealed from should be reversed.

Respectfully submitted,

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1710 Broadway,
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